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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,783	03/08/2004	Frederick Leslie Colhoun	80097	1604

7590 07/12/2006

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EXAMINER

LE, HOA T

ART UNIT PAPER NUMBER

1773

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/795,783	Applicant(s) COLHOUN ET AL.	
	Examiner H. T. Le	Art Unit 1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-40 and 53-61 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-33, 36-40 and 55-61 is/are rejected.
- 7) ☒ Claim(s) 34, 35, 53 and 54 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>May 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 26-33, 36-40 and 55-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over the '659 Fujimori patent (US 6,200,659) in view of the JP'567 patent (JP 05-070567).*

Claims 26-29: '659 Fujimori patent teaches a method of making container from polyester particles by feeding the particles (Fujimori, col. 17, Table 1, example 1) into an extrusion zone, melting the particles, and forming a molded part. (Fujimori, col. 8, lines 30-62).

Fujimori does not teach viscosity difference between the center and the surface of the particles. The JP '567 patent teaches polyester particles having difference in viscosity between the center and the surface of the particle by 0.125 or lower (see JP'567 abstract).

The polyester particles made by the JP'567 method involves crystallization process (JP'567, paragraph [0020]); therefore, their crystallinity must be at least 15%. Therefore, it would

* Both copies of references have been provided by applicant.

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have been obvious to modify the process taught by Fujimori by utilizing the polyester particles taught by the JP'567 because the JP'567 states that such polyester particles provide quality moldability which does not deteriorate even at high speed melting extrusion (see JP'567, paragraph [0006]).

Claims 30-32: See Fujimori, col. 30-35 and 43-50.

Claims 33: See Fujimori, col. 8, lines 47-51.

Claims 36-37: See Fujimori, col. 2, lines 53-63.

Claims 38-39: The polyester particles made by the JP'567 method involves crystallization process (JP'567, paragraph [0020]); therefore, their crystallinity must be at least 25% or 35.

Claim 40: It would have been obvious for one having ordinary skill in the art to arrive at bulk of polyester particles sufficient to produce quality polyester-based articles through routine experimentation.

Claims 55-61: See rejection to claims 26-29 and 38-39 above.

Response to Arguments

4. Applicant's arguments with respect to claims 26-33, 36-40 and 55-61 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

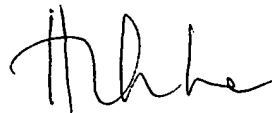
5. Claims 34, 35, 53 and 54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art references of record, singly or combined, teach or suggest polyester particles having difference in intrinsic viscosity between surface and the core as claimed that are made without solid state polymerization. The polyester particles taught by the JP'567 are made by solid polymerization in order to achieve the difference in intrinsic viscosity of less than 0.125 between the surface and the core of the particles.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511. The examiner can normally be reached on 10:00 a.m. to 6:30 p.m., Mondays to Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



H. T. Le
Primary Examiner
Art Unit 1773

July 8, 2006